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### **REMARKS**

This response intended as a full and complete response to the final Office Action mailed July 6, 2005. In the Office Action, the Examiner notes that claims 1-35 are pending and rejected. By this response, claims 1-4, 8-16, 20-27, and 31 are amended. Claims 5-7, 17-19, 28-30, and 32-35 continue unamended. No new matter has been entered.

In view of both the amendments presented above and the following discussion, Applicant submits that none of the claims now pending in the application are indefinite or anticipated under the respective provisions of 35 U.S.C. §112 and §102.

It is to be understood that Applicant, by amending the claims, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

### **REJECTIONS**

#### **35 U.S.C. §112**

The Examiner has rejected claims 2-4 and 8-26 under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinct claim the subject matter which Applicant regards as the invention.

With respect to claims 2-4, the Applicant has herein amended claims 2-4 to better define the adjacent pitch periods and the new pitch period. Furthermore, Applicant has herein amended claim 1 from which claims 2-4 depend to include a pitch period.

With respect to claims 8-10, the Applicant has herein amended claims 8-10 to replace "the play time of audio information" with "the play out time of audio information."

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With respect to claim 11, the Applicant has herein amended claim 11 to replace "the play time" with "the target play time." Furthermore, the Applicant has herein amended claim 11 to replace "its latency period" with "a latency period associated with the next packet."

With respect to claim 12, the Applicant has herein amended claim 12 to replace "the play time" with "a play time."

With respect to claim 13, the Applicant has herein amended claim 13 to replace "said audio samples" with "said audio information."

With respect to claims 14-16, the Applicant has herein amended claims 14-16 to better define the adjacent pitch periods and the new pitch period. Furthermore, Applicant has herein amended claim 13 from which claims 14-16 depend to include a pitch period.

With respect to claims 20-22, the Applicant has herein amended claims 20-22 to replace "the play time" with "the scheduled play out time."

With respect to claim 23, the Applicant has herein amended claim 23 to replace "the play time" with "the target play time." Furthermore, the Applicant has herein amended claim 23 to replace "its latency period" with "the latency period of said sequentially following packet."

With respect to claim 24, the Applicant has herein amended claim 24 to replace "the play time" with "the target play time." Furthermore, the Applicant has herein amended claim 24 to replace "the nonsequential packet" with "the second packet."

With respect to claim 25, the Applicant has herein amended claim 25 to replace "said audio samples" with "said audio information." Furthermore, the Applicant has herein amended claim 25 to replace "said instructions" with "comprising instructions operative to."

With respect to claim 26, the Applicant has herein amended claim 26 to replace "said audio samples" with "said audio information."

With respect to claim 31, the Applicant has herein amended claim 31 to replace "its latency period" with "the latency period."

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Therefore, Applicant submits that claims 1-35 are not indefinite and fully satisfy the requirements of 35 U.S.C. §112, ¶2, and are patentable thereunder. Accordingly, the Applicant respectfully requests that the Examiner's objection be withdrawn.

### **35 U.S.C. §102**

#### **Claims 1-35**

The Examiner has rejected claims 1-35 under 35 U.S.C. §102(e) as being anticipated by Kwan (US 2003/0112796) (hereinafter "Kwan"). Applicant respectfully traverses the rejection.

In general, Kwan teaches voice and data exchange over a packet based network with fax relay spoofing. In particular, Kwan teaches lost packet recovery and frame deletion processing when packets arrive too late to be sequenced properly or are entirely lost. As taught in Kwan, packet recovery refers to methods used to hide distortions caused by the loss of voice packets. The missing voice is filled with synthesized voice using linear predictive coding modeling of speech. In particular, Kwan teaches that the voice is modeled using the pitch and spectral information from digital voice samples received prior to the lost packet. (Kwan, Abstract; Para 0223-0225).

Kwan, however, fails to teach each and every element of Applicant's invention of at least claim 1. Namely, Kwan fails to teach or suggest at least the limitation of "adjusting said length of said first packet using at least one pitch period associated with said pitch, responsive to a determination that said second packet arrives after the expected arrival time." Specifically, Applicant's claim 1 positively recites:

A method of processing a sequence of audio samples, each of said samples being stored within a respective packet, said method comprising:  
retrieving a first packet from an input buffer, said first packet having an associated length;  
determining pitch associated with audio information contained within said first packet;

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determining whether a second packet of said audio samples has arrived at said input buffer, said second packet having an expected arrival time; and

adjusting said length of said first packet using at least one pitch period associated with said pitch, responsive to a determination that said second packet arrives after the expected arrival time.

[Emphasis added.]

The Applicant's invention teaches adjustment of the length of the packet currently being processed where a next packet has not timely arrived to the input buffer (i.e., has arrived after an expected arrival time of the second packet). As taught in Applicant's invention of at least claim 1, the adjustment of the length of the packet is performed using at least one pitch period associated with the pitch of the audio information contained within the packet being processed. The length of the packet currently being processed is extended or reduced to compensate for the delay time of receiving the next packet. In other words, Applicant's invention adjusts one or more pitch periods in the audio information of a packet retrieved from the input buffer in an instance where a next packet has not timely arrived to the input buffer.

By contrast, Kwan teaches a lost packet recovery engine which replaces missing voice with synthesized voice using the linear predictive coding model of speech. In particular, the Kwan reference discloses that the "algorithm uses previous digital voice samples or a parametric representation thereof, to estimate the contents of lost packets when they occur. Using the parameters determined from the voice analysis, one frame of voice is synthesized 201." (Kwan, Para. 0225-0230). In other words, the Kwan reference teaches creation of an entirely new frame to replace a lost frame (i.e., packet). The creation of an entirely new packet, as taught in Kwan, is simply not adjustment of the length of a packet using at least one pitch period of the pitch associated with audio information contained within the packet, as taught in Applicant's invention of at least claim 1.

Furthermore, as taught in Kwan, the new packet is created in response to a lost packet such that the newly created packet replaces the lost packet. In Applicant's invention of at least claim 1, on the other hand, the length of a first

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packet is adjusted in response to a determination that a second packet has not timely arrived. In other words, the length of the first packet is adjusted if the second packet arrives after an expected arrival time associated with the second packet. The creation of an entirely new packet in response to a lost packet, as taught in Kwan, is simply not adjustment of the length of a packet in response to a determination that a second packet has arrived after an expected arrival time associated with the second packet, as taught in Applicant's invention of at least claim 1. Therefore, the Kwan reference fails to teach each and every element of the claimed invention, as arranged in the claim.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The Kwan reference fails to disclose each and every element of the claimed invention, as arranged in the claim. The Kwan reference fails to teach each and every element of the claimed invention, as arranged in the claim.

As such, Applicant submits that independent claim 1 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, independent claims 13, 25, 26, and 27 recite substantially similar features to the features of claim 1. Namely, independent claims 13, 25, 26, and 27 recite the substantially similar limitation of "adjust said length of said first packet using at least one pitch period associated with said pitch, responsive to a determination that said second packet arrived after the expected arrival time." As such, for at least the reasons discussed above with respect to claim 1, claims 13, 25, 26 and 27 are also not anticipated by Kwan and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder.

As such, Applicant submits that independent claims 1, 13, 25, 26 and 27 are not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Furthermore, claims 2-12, 14-24 and 28-35 depend,

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either directly or indirectly, from independent claims 1, 13, 25, 26 and 27 and recite additional features therefor. As such and at least for the same reasons as discussed above, Applicant submits that these dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicant respectfully requests that the rejection be withdrawn.

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**CONCLUSION**

Thus, Applicant submits that the pending claims are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

8/31/05

EJ Wall

Eamon J. Wall, Attorney  
Reg. No. 39,414  
(732) 530-9404

Moser, Patterson & Sheridan, LLP  
Attorneys at Law  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702